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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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08/835,105 04/04/97 SCHULZE E 2937-9

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EXAMINER

HAYES, G

ART UNIT

PAPER NUMBER

2766

DATE MAILED:

12/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/835,105

Applicant(s)
SCHULZE, JR.

Examiner
Gall Hayes

Group Art Unit
2766



☒ Responsive to communication(s) filed on the amendment filed 9-23-99

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-7, 9-22, and 24-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-7, 9-22, and 24-28 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 and 20-22 remain rejected under 35 U.S.C. 103(a) as being unpatentable over De Lapa in view of Day as previously applied and as discussed below..

3. Newly amended claims 1 and 20-22 require that either a coupon and benefit receipt be generated or that only a benefit receipt and not a coupon be generated. As indicated in col. 5 lines 36-55 of Day, the customer benefit may include not only product discounts but cash awards.

Newly amended language also requires that the first survey question not be associated with any specific product that can be purchased by the customer. The Examiner respectfully notes that this language is so broad as to include simply to ask the customer to confirm identification information. As per the identification device, this language is so broad as to include any apparatus which would read the identification card of Day. As per monitoring of answers, the examiner respectfully asserts that if the answer is important enough in a survey it is well known to prevent subsequent questions from being presented unless that question is answered. Finally, as per output and input devices, the Examiner asserts that means to output questions to the customer is necessary or there would be no way for the customer to have access to them and it would have been equally obvious to provide some input means for the customer or there would be no way for the customer to input her answers. Motivation to require answering of at least one question would have been that if the reward were provided before questions were answered, there would

have been no incentive for the customer to answer questions. These claims remain rejected.

4. New claim 24 requires that the system monitors whether or not the customer responded to the first survey question. The examiner respectfully asserts that if the answer is important enough in a survey it is well known to prevent subsequent questions from being presented unless that question is answered. Claim 24 is rejected.

5. The limitation of claim 25 is addressed above.

6. As per claim 26, the Examiner respectfully asserts that use of questions to gather opinion and general product information in customer surveys is well known. Motivation to include in any customer survey would be to make sure that the presenters of the survey are able to obtain this information.

7. As per claim 27, the Examiner respectfully asserts that once the idea of generation of a reward for answering questions is known to one of ordinary skill in the art, the skilled artisan would have been motivated by the desire for increased customer cooperation to provide as many rewards as necessary to make sure that this cooperation was forthcoming.

8. As per claim 28, the Examiner asserts that the interactive apparatus in the De Lapa-Day combination would be in communication with the home system of the entity sponsoring the system. Thus the managing apparatus would include the controller at the home site and the processor in the interactive apparatus.

9. Claims 11-14 and 16-19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over as previously applied, and further in view of Day .

10. Newly amended claim 11 and 20-22 require that either a coupon and benefit receipt be generated or that only a benefit receipt and not a coupon be generated. As indicated by Day in col. 5 lines 36-55, the customer benefit may include not only product discounts but cash awards.

The Examiner respectfully notes that this language is so broad as to include simply to ask the customer to confirm identification information. These claims remain rejected.

11. Patent owner's amendment filed 9-23-99 necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

A shortened statutory period for response to this action is set to expire **three months** from the mailing date of this action.

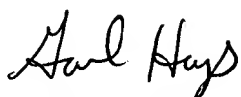
Extensions of time under 37 CFR 1.136(a) do not apply in reexamination proceedings. The provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Further, in 35 U.S.C. 305 and in 37 CFR 1.550(a), it is required that reexamination proceedings "will be conducted with special dispatch within the Office."

Extensions of time in reexamination proceedings are provided for in 37 CFR 1.550(c). A request for extension of time must be filed on or before the day on which a response to this action is due. The mere filing of a request will not effect any extension of time. An extension of time will be granted only for sufficient cause, and for a reasonable time specified.

The filing of a timely first response to this final rejection will be construed as including a request to extend the shortened statutory period for an additional month, which will be granted even if previous extensions have been granted. In no event, however, will the statutory period for response expire later than **SIX MONTHS** from the mailing date of the final action. See MPEP § 2265.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to whose telephone number is (703) 305-9711. The examiner can normally be reached on Monday to Friday from 9 am to 6 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


GAIL O. HAYES
SUPERVISORY PATENT EXAMINER
GROUP 2700